

2003 DRAFTING REQUEST**Bill**Received: **10/04/2002**Received By: **pkahler**Wanted: **As time permits**

Identical to LRB:

For: **Sheldon Wasserman (608) 266-7671**By/Representing: **Joe Hoey**This file may be shown to any legislator: **NO**Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - paternity**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Wasserman@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting dismissal of an action to rebut a presumption of paternity

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/04/2002	kgilfoy 10/10/2002					
/1			pgreensl 10/11/2002		lkunkel 10/11/2002	amentkow 01/10/2003	

FE Sent For:

*None
Needed*

<END>

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10/11/2002 01:37:23 PM

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1-10/10 kung	10/11 PS	10/11 <END> pg. 12					
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10-4

Joe Hoey - Rep Wasserman

redraft LRB-4355 (re. prohibiting
from last session

dismissal of action to rebut a

presumption of paternity)

2003

Date (time)
needed

LRB - 0366, 1

BILL

ATK : King:

Use the appropriate components and routines developed for bills.

AN ACT... [generate catalog] *to repeal*...; *to renumber*...; *to consolidate and renumber*...; *to renumber and amend*...; *to consolidate, renumber and amend*...; *to amend*...; *to repeal and recreate*...; and *to create*... of the statutes; relating to:

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4355/1

PJK:rs&jld:jf

2001 ASSEMBLY BILL 839

February 20, 2002 - Introduced by Representatives WASSERMAN, GUNDRUM, AINSWORTH, ALBERS, COLON, GRONEMUS, GROTHMAN, GUNDERSON, LA FAVE, MUSSER, STASKUNAS and STONE. Referred to Committee on Judiciary.

1 AN ACT to amend 767.458 (1m) and 767.463 of the statutes; relating to:
2 prohibiting the dismissal, in a child's best interest, of an action to rebut a
3 presumption of paternity.

was married to the mother of a child when
the child was born or conceived

Analysis by the Legislative Reference Bureau

Under current law, a man who ~~has a child with the mother of the child~~ is presumed to be the father of the child. The man may bring an action to rebut that presumption. The presumption is rebutted if the results of genetic tests show that another man is not excluded as the father of the child and ~~the~~ the probability that the other man is the father is 99% or higher. Current law also provides that in a paternity action a judge or ~~judge~~ court commissioner may refuse to order genetic tests and dismiss the action if, upon the motion of a party or guardian ad litem, the judge or ~~judge~~ court commissioner determines that it is not in the child's best interest to determine whether a man is the child's father or that a man other than the mother's husband is the father.

→ This bill provides that, regardless of a child's best interest, a judge or ~~judge~~ court commissioner may not refuse to order genetic tests and ~~dismiss~~ a paternity action if the man who is presumed to be the father of the child because he is the mother's husband desires to rebut the presumption that he is the father.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 839

SECTION 1

1 SECTION 1. 767.458 (1m) of the statutes is amended to read:

2 767.458 (1m) In an action to establish the paternity of a child who was born
3 to a woman while she was married, where a man other than the woman's husband
4 alleges that he, not the husband, is the child's father, a party may allege that a
5 judicial determination that a man other than the husband is the father is not in the
6 best interest of the child. If the court or ~~the court~~ court commissioner under s. ~~767.458 (1m)~~
7 determines that a judicial determination of whether a man other than the husband
8 is the father is not in the best interest of the child, no genetic tests may be ordered
9 and the action shall be dismissed. This subsection does not apply if the husband
10 desires to rebut the presumption under s. 891.41 (1) that he is the father of the child.

11 SECTION 2. 767.463 of the statutes is amended to read:

12 767.463 Dismissal if adjudication not in child's best interest. Except as
13 provided in s. 767.458 (1m), at any time in an action to establish the paternity of a
14 child, upon the motion of a party or guardian ad litem, the court or ~~the court~~ court
15 commissioner under s. ~~767.458 (1m)~~ may, with respect to a man, refuse to order
16 genetic tests, if genetic tests have not yet been taken, and dismiss the action if the
17 circuit or supplemental court or court commissioner determines that a judicial determination of whether the
18 man is the father of the child is not in the best interest of the child. This section does
19 not apply in an action in which a man who is presumed to be the father of the child
20 under s. 891.41 (1) desires to rebut the presumption.

21 (END)

a circuit or supplemental

757.675 (2)(g)

(LPS: the
penciled in changes
are in current
law)

Mentkowski, Annie

From: Hoeyx, Joseph
Sent: Friday, January 10, 2003 9:30 AM
To: LRB.Legal
Subject: Draft review: LRB-0366/1 Topic: Prohibiting dismissal of an action to rebut a presumption of paternity

It has been requested by <Hoeyx, Joseph> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0366/1 Topic: Prohibiting dismissal of an action to rebut a presumption of paternity